HIGH COURT OF CHHATTISGARH AT BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI JAGDISH BHALLA, Ag C.J.
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Writ Appeal No.248 of 2007

Appellant
Petitioner

Praveen Kumar Pathak, aged about 37 years, S/o Late Shri Prakash Narayan Pathak, R/o Polsaipara, Durg (CG)

Versus

Respondents

1. State of Chhattisgarh, through Secretary, Home Department, Mantralaya, Raipur (CG)

2. Superintendent of Police, Durg (CG)

3. SK Yadav, Town Inspector, Police Station Kotwali Durg, [Old Bus Stand] Durg [CG]

4. Pramod Pathak aged about 35 years, S/o Late Shri Prakash Narayan Pathak

5. Smt Archana Pathak, aged about 32 years, W/o Pramod Pathak

   (Respondent No.4 & 5 now illegal occupant of MIG – 125, Padmanabhpur, Durg PO & District – Durg (CG)

6. Amol Pathak, aged about 33 years Practicing Advocate at Durg, Bar Room no.4, District Court Durg, PO & Distt Durg [CG]

7. MK Khan, aged about 33 years, Practicing Advocate at Durg, Bar Room No.4, District Court Durg, PO & Dist. Durg [CG]

8. Smt. Rukmani Pahak aged about 70 years, Wd/o PN Pathak, now R/o MIG-125, Padmanabhpur, PO & Distt Durg [CG]

Memorandum of Appeal under Section – 2 (1) Chhattisgarh High Court (Appeal to Division Bench) Act, 2006

Present : Shri BR Ghosh and Smt Meera Jaiswal, counsel for the appellant.

Oral Judgment

(Passed on 12th September, 2007)

The following order of the Court was passed by **Hon'ble Dilip Raosaheb Deshmukh, J.**

Heard.

The appellant is aggrieved by the order dated 20.08.2007, passed by the learned Single Judge in WP No.843/2002, whereby the writ petition was dismissed.

The appellant/petitioner No.1 has prayed for the following reliefs in the writ petition :

> "(i) A direction kindly be issued to the State respondent -1 to register case against respondent-4 to 7 and also against respondent No.3.
>
> (ii) Direction kindly be given to state respondent -1 to suspend and transfer respondent-3 for his dereliction of duty.
>
> (iii) Direction kindly be given to state respondent-1 to conduct impartial enquiry on the basis of report annexure P/8 and bring the culprits to book.
>
> (iv) The State respondent-1 kindly be directed to restore possession of house MIG-125 in Padmanabhpur, Durg.
>
> (v) Compensation to the tune as may be deemed justified may kindly be directed to be paid to the petitioner-1 for the harassment meted out to him by respondent-3.
>
> (vi) Any other relief deemed justified may also kindly be allowed to the petitioner."

It appears that there is a dispute between two brothers i.e. appellant/petitioner on one hand and respondent No.4 on the other over possession of some ancestral property. It also appears that the appellant/ petitioner had initiated proceedings under Section 145 of Code of Criminal Procedure against respondent No.4 and the Sub Divisional Magistrate, Durg has already taken cognizance of the matter which is now fixed for recording evidence of parties. The appellant/petitioner also had an alternative and efficacious remedy of filing a complaint under Section 200 of Code of Criminal Procedure, if no action was taken by the police on the reports lodged by the appellant/petitioner.

In this view of the matter, no ground for interference is made out. The appeal being devoid of merit, is dismissed.

Sd/-
Acting Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

subbu